

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

GARY JONES,

Plaintiff,

v.

CITY OF WAYNESBORO, et al.,

Defendants.

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CV 122-030

O R D E R

Presently before the Court is the Parties' stipulation of dismissal as to all defendants except City of Waynesboro and request for dismissal of count two. (Doc. 25.)

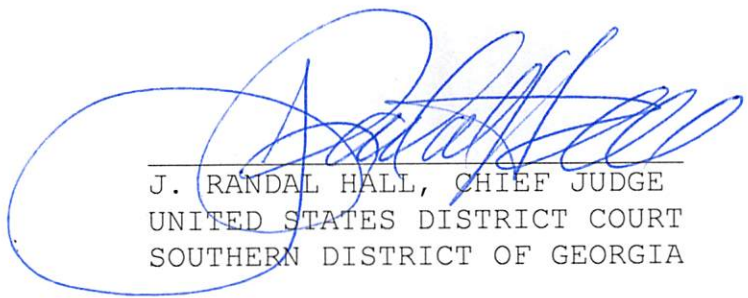
The Court begins with the Parties' stipulation of dismissal. Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), the Parties stipulate to the dismissal of all defendants except Defendant City of Waynesboro. (Id.) A stipulation of dismissal may be used to dismiss less than all parties in a lawsuit. Jackson v. Equifax Info. Servs., LLC, No. CV 119-096, 2020 WL 476698, at *1-2 (S.D. Ga. Jan. 29, 2020). Therefore, the stipulation to dismiss with prejudice all claims against Defendants Alberta J. Anderson, Richard H. Byne, James Jones, Vickey Bates, Bill Tinley, Willie Williams, Valerie Kirkland, and Willie J. Burley is proper, and dismissal with prejudice was effective at the time of filing. Rainey-Jones v. Charlie Norwood VA Med. Ctr., No. CV 119-186, 2020

WL 5370958, at *1 (S.D. Ga. Sept. 8, 2020) ("If the stipulation of dismissal is proper, the stipulation is 'self-executing' and becomes effective upon filing.") (citing Anago Franchising, Inc. v. Shaz, LLC, 677 F.3d 1272, 1278 (11th Cir. 2012)).

As for the request for dismissal of count two against Defendant City of Waynesboro, the Parties "move the Court for an order dismissing Count 2 of Plaintiff's complaint." (Doc. 25, at 2.) The Court therefore construes this request as a motion under Rule 41(a)(2). However, this request is improper because Rule 41 is an improper mechanism to dismiss less than all claims in a lawsuit. Perry v. Schumacher Grp. of La., 891 F.3d 954, 958 (11th Cir. 2018). The proper method to dismiss less than all claims is to amend the complaint under Federal Rule of Civil Procedure 15. Id.

For the aforementioned reasons, the Clerk is **DIRECTED** to **TERMINATE** Defendants Alberta J. Anderson, Richard H. Byne, James Jones, Vickey Bates, Bill Tinley, Willie Williams, Valerie Kirkland, and Willie J. Burley as parties to this action pursuant to the stipulation. Plaintiff and the dismissed Defendants shall bear their own costs and fees with respect to each other. As for the Parties request to dismiss count two against Defendant City of Waynesboro, this request is **DENIED**. Plaintiff may seek and obtain leave to amend the complaint pursuant to Federal Rule of Civil Procedure 15 to dismiss count two.

ORDER ENTERED at Augusta, Georgia, this 21ST day of
November, 2022.



J. RANDAL HALL, CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA